

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

**BRUCE SIMONS, *et al*,**

**Plaintiffs,**

**v.**

**DYNACQ HEALTHCARE, INC., *et al*,**

**Defendants.**

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**CIVIL ACTION NO. H-03-05825**

**MEMORANDUM AND ORDER**

Pending before the Court is Defendant Dynacq Healthcare, Inc.'s ("Dynacq") Motion to Quash or Modify Ernst & Young Subpoena (Doc. # 159). Plaintiffs have filed a response to the motion, indicating that the parties have reached an agreement governing Ernst & Young's compliance with the subpoena and production of documents. In accordance with the parties' agreement, Ernst & Young will first produce relevant documents to Dynacq for review, prior to producing the documents to Plaintiffs. Dynacq will then assert any applicable and proper privileges as to specific documents. Third, Ernst & Young will produce all documents, to which Dynacq has not asserted any privilege, to Plaintiffs. Finally, if Plaintiffs disagree with any privilege asserted with respect to particular documents, Plaintiffs will raise their objection pursuant to the agreement already in place between the parties for handling discovery disputes.

The Court finds this to be an appropriate plan for handling the production of documents in accordance with the subpoena, and the parties are strongly encouraged to work together to facilitate this process. The Court is not inclined to rule on such uncertain and various privileges as those asserted in Dynacq's motion to quash; but rather, will take up specific privileges asserted as to specific documents or evidence, if necessary. For this reason, and in light of the parties' agreement, Dynacq's Motion to Quash or Modify Ernst & Young Subpoena is **DENIED**.

This ruling is without prejudice to the parties' right to raise specific objections pursuant to their agreement for handling discovery disputes.

**IT IS SO ORDERED.**

**SIGNED** this 10th day of July, 2006.

A handwritten signature in dark ink, appearing to read "Keith P. Ellison", written over a horizontal line.

KEITH P. ELLISON  
UNITED STATES DISTRICT JUDGE

TO INSURE PROPER NOTICE, EACH PARTY WHO RECEIVES THIS ORDER SHALL  
FORWARD A COPY OF IT TO EVERY OTHER PARTY AND AFFECTED NON-PARTY  
EVEN THOUGH THEY MAY HAVE BEEN SENT ONE BY THE COURT